

SECOND REGULAR SESSION

SENATE BILL NO. 1230

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Read 1st time February 27, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4447S.02I

AN ACT

To repeal sections 172.360, 174.130, 178.635, and 178.780, RSMo, and to enact in lieu thereof twenty-two new sections relating to immigration, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 172.360, 174.130, 178.635, and 178.780, RSMo, are
2 repealed and twenty-two new sections enacted in lieu thereof, to be known as
3 sections 7.300, 7.303, 7.306, 7.309, 7.315, 7.318, 143.992, 172.360, 174.130,
4 175.025, 178.635, 178.780, 178.786, 208.009, 285.309, 285.500, 285.503, 285.506,
5 285.509, 285.512, 285.515, and 285.518, to read as follows:

**7.300. Sections 7.300 to 7.318, section 143.992, RSMo, section
2 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo, sections
3 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, sections 285.309,
4 285.500, 285.503, 285.506, 285.509, 285.512, 285.515, and 285.518, RSMo,
5 shall be known and may be cited as the "Missouri Omnibus Immigration
6 Act". All officials, agencies, and personnel covered by the provisions of
7 this act shall fully comply with, and, to the full extent permitted by law,
8 support the enforcement of federal law prohibiting the entry into and
9 presence in the United States of aliens in violation of federal
10 immigration law.**

**7.303. The purpose of the Missouri Omnibus Immigration Act is
2 to assist the federal government in enforcing federal immigration law
3 to its full extent. Sections 7.300 to 7.318, section 143.992, RSMo, section
4 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo, sections
5 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, sections 285.309,**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 285.500, 285.503, 285.506, 285.509, 285.512, 285.515, and 285.518, RSMo,
7 enhance state law in order to allow the enforcement of federal law. In
8 no way should this legislation be viewed as Missouri's attempt to
9 occupy the immigration field which should be occupied solely by the
10 federal government. Rather, sections 7.300 to 7.318, section 143.992,
11 RSMo, section 172.360, RSMo, section 174.130, RSMo, section 175.025,
12 RSMo, sections 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo,
13 sections 285.309, 285.500, 285.503, 285.506, 285.509, 285.512, 285.515, and
14 285.518, RSMo, use the inherent powers of the state of Missouri in its
15 own areas of law that indirectly affect immigration.

7.306. 1. The general assembly of the state of Missouri finds that
2 employers in this state who use illegal laborers have systematically
3 distorted the labor market of this state by reducing wages, adversely
4 affecting working conditions, evading taxes, and reducing the number
5 of jobs available to those who are lawfully entitled to employment in
6 Missouri. Employment of illegal laborers should be viewed as any other
7 illegal business practice, that is, a means to exploit others and to gain
8 an advantage over law-abiding competitors.

9 2. The general assembly of the state of Missouri further finds
10 that the United States, through the U.S. Department of Homeland
11 Security, has established and maintains a national program for the
12 electronic verification of work authorization, the E-verify program,
13 which enables employers to promptly and accurately verify the
14 employment eligibility of all job applicants.

15 3. State and federal law require that certain conditions be met
16 before a person may be authorized to work or reside in the United
17 States.

18 4. Unlawful workers and illegal aliens, as defined by sections
19 7.300 to 7.318 and state and federal law, do not meet such conditions as
20 a matter of law when present in the state of Missouri.

21 5. Unlawful employment and crime committed by illegal aliens
22 harm the health, safety and welfare of authorized U.S. workers and
23 legal residents in the state of Missouri.

24 6. The federal government has neglected to properly protect the
25 citizens of the state of Missouri from the adverse effects of
26 unauthorized employment and the activities of criminal aliens.

27 7. The state of Missouri finds that it is in the best interests of the

28 state and that it will benefit the health, safety and welfare of the public
29 to adopt policies and procedures to deter and prevent unauthorized
30 employment and criminal activity by illegal aliens.

7.309. 1. As used in this section, the following terms shall have
2 the following meanings:

3 (1) "Employee", any person performing or applying for work or
4 service of any kind or character for hire;

5 (2) "Employer", the state, a political subdivision of the state, local
6 government, or person who pays for the services of an individual
7 employee or independent contractor. This term shall not include a
8 person who pays for the services of a general or sub-contractor. Where
9 there are two or more putative employers, any person or entity taking
10 a business tax deduction for the employee in question shall be
11 considered an employer of that person;

12 (3) "Employment", the act of employing or state of being
13 employed, engaged, or hired;

14 (4) "Illegal alien", an alien who is not lawfully present in the
15 United States, according to the terms of 8 U.S.C. 1101, et seq. The state
16 of Missouri shall not conclude that a person is an illegal alien unless
17 and until an authorized representative of the state of Missouri has
18 verified with the federal government, under 8 U.S.C. 1373(c), that the
19 person is an alien who is not lawfully present in the United States;

20 (5) "Law enforcement", any peace officer as defined in section
21 590.010, RSMo;

22 (6) "Law enforcement agency", any agency employing law
23 enforcement officers;

24 (7) "Status verification system", an electronic system operated by
25 the federal government, through which an authorized official of an
26 agency of this state or of a political subdivision of this state may make
27 an inquiry, by exercise of authority delegated under 8 U.S.C. 1373, to
28 verify the work authorization status of any individual. The status
29 verification system shall be deemed to include the electronic
30 verification of work authorization program of the Illegal Immigration
31 Reform and Immigration Responsibility Act of 1996, P.L. 104-208,
32 Division C, Section 403(a); 8 U.S.C. 1324a, and operated by the United
33 States Department of Homeland Security, known as E-Verify, or any
34 equivalent federal work authorization program designated by the

35 United States Department of Homeland Security or any other federal
36 agency authorized to verify the work authorization status of newly
37 hired employees, pursuant to the Immigration Reform and Control Act
38 of 1986 (IRCA), D.L. 99-603;

39 (8) "Unauthorized alien", an alien who does not have the legal
40 right or authorization under federal law to work in the United States,
41 as defined by 8 U.S.C. 1324a(h)(3);

42 (9) "Work", any job, task, employment, labor, personal services,
43 or any other activity for which compensation is provided, expected, or
44 due, including but not limited to all activities conducted by business
45 entities.

46 2. It shall be unlawful for any employer to employ, recruit, hire
47 for employment, or continue to employ an unauthorized alien to
48 perform work within the state of Missouri.

49 3. As provided in section 143.992, RSMo, all employers shall
50 submit an affidavit to the department of revenue accompanying each
51 remittance of withholding taxes, or in the case of an employer which
52 does not withhold employee taxes, such employer shall submit such
53 affidavit with the annual income tax return required under chapter
54 143, RSMo, affirming that such employer is enrolled in and actively
55 participating in the status verification system.

56 4. All employers shall be in compliance with this section by
57 submitting the information required in subsection 3 of this section by
58 the following deadlines:

59 (1) January 1, 2009, for all state employers, state political
60 subdivision employers, and local government employers;

61 (2) January 1, 2010, for any employer as a condition for the
62 award of any state contract or grant to an employer for which the value
63 of employment, labor, or personal services shall exceed ten thousand
64 dollars;

65 (3) January 1, 2010, for any employer cumulatively employing
66 thirty or more employees including independent contractors, within the
67 previous calendar year;

68 (4) January 1, 2011, and every year thereafter, for any employer
69 cumulatively employing ten or more employees including independent
70 contractors, within the previous calendar year.

71 5. An employer participating in the status verification system

72 shall verify the employment eligibility of every employee, including
73 every independent contractor, in the employer's hire whose
74 employment commences after the employer enrolls in the status
75 verification system. The employer shall retain all documentation
76 received in connection with the participation in the status verification
77 system that verifies the employment eligibility of every employee and
78 independent contractor for at least three years after the termination
79 of the employment of the employee or the independent contractor. This
80 documentation shall be provided to the department of revenue upon
81 request.

7.315. 1. All law enforcement agencies shall inquire into the
2 citizenship and immigration status of any person arrested and detained
3 in a jail facility for a violation of any state law, regardless of the
4 person's national origin, ethnicity, or race. In all such cases where a
5 person indicates that he or she is not a citizen or national of the United
6 States, the law enforcement agent shall verify with the federal
7 government whether the alien is lawfully or unlawfully present in the
8 United States, under 8 U.S.C. 1373(c). If the alien is verified to be
9 unlawfully present in the United States, the law enforcement officer
10 shall cooperate with any request by federal immigration authorities to
11 detain the alien or transfer the alien for up to seven days to the
12 custody of the federal government.

13 2. Under 8 U.S.C. 1373 and 1644, no official, personnel or agent
14 of a city, county, or state law enforcement agency may be prohibited or
15 in any way restricted from sending, receiving, or maintaining,
16 information regarding the immigration status, lawful or unlawful, of
17 any individual, or exchanging such information with any other federal,
18 state or local government entity. No city, county, or state law
19 enforcement agency may by ordinance, official policy, or informal
20 policy, prevent its officers from asking individuals their citizenship or
21 immigration status.

22 3. The state of Missouri, through the department of public safety,
23 shall as quickly as practicable enter into a cooperative agreement with
24 the United States Department of Homeland Security, under 8 U.S.C.
25 1357(g), to designate specific state law enforcement officers as officers
26 qualified to exercise the enforcement powers of federal immigration
27 officers in the United States. The state may negotiate the cooperative

28 agreement or participate in its implementation in partnership with
29 other state or local law enforcement agencies.

7.318. If any provision of sections 7.300 to 7.318, section 172.360,
2 RSMo, section 174.130, RSMo, section 175.025, RSMo, sections 178.635,
3 178.780, 178.786, RSMo, section 208.009, RSMo, sections 285.309, 285.500,
4 285.503, 285.506, 285.509, 285.512, 285.515, and 285.518, RSMo, or the
5 application of any such provision to any person or circumstance is held
6 invalid, the invalidity shall not affect other provisions or applications
7 of sections 28.800 to 28.236, section 172.360, RSMo, section 174.130,
8 RSMo, section 175.025, RSMo, sections 178.635, 178.780, 178.786, RSMo,
9 section 208.009, RSMo, 285.309, 285.500, 285.503, 285.506, 285.509,
10 285.512, 285.515, and 285.518, RSMo, which can be given effect without
11 the invalid provision or application, and to this end the provisions of
12 this act are declared to be severable.

143.992. 1. Any employer subject to the provisions of section
2 7.309, RSMo, shall submit an affidavit to the department of revenue
3 accompanying each remittance of withholding taxes or in the case of an
4 employer which does not withhold employee taxes, such employer shall
5 submit such affidavit with the annual income tax return required under
6 this chapter. Such affidavit shall be signed by the employer under
7 penalty of perjury and shall specifically state the following:

8 (1) Whether the employer utilized a business expense or business
9 loss deduction in determining federal adjusted gross income;

10 (2) Whether the employer employed any employees including
11 independent contractors, for the tax year in question and the number
12 of such employees;

13 (3) Whether the employer is enrolled in and is actively
14 participating in the status verification system as defined in section
15 7.309, RSMo;

16 (4) Whether the employer has verified the employment eligibility
17 of every employee, including independent contractors, in his or her
18 employ and all such employees and independent contractors are
19 eligible for employment under 8 U.S.C. 1324a(h)(3);

20 (5) The employer identification number signifying the employer's
21 enrollment in the status verification system as defined in section 7.309,
22 RSMo.

23 2. Failure of an employer to timely submit the affidavit required

24 under subsection 1 of this section may result in an audit by the
25 department of revenue.

26 3. If a determination is made by the director of revenue that the
27 employer has knowingly made a material misrepresentation of fact with
28 regard to any information contained in the affidavit required under
29 subsection 1 of this section, the employer shall be required to add back
30 business expense deductions taken to determine federal adjusted gross
31 income in order to determine Missouri adjusted gross income to the
32 extent such deductions constituted wages paid to employees, including
33 independent contractors, whose employment eligibility was not verified
34 by the status verification system as defined in section 7.309, RSMo.

35 4. Compensation provided to any unauthorized alien, whether in
36 money, in kind, or in services, shall not be allowed as a business
37 expense deduction from any income or business taxes of this state.

172.360. 1. All youths, resident of the state of Missouri, shall be admitted
2 to all the privileges and advantages of the various classes of all the departments
3 of the University of the State of Missouri[;], provided[,] that each applicant for
4 admission [therein] shall possess such scholastic attainments and mental and
5 moral qualifications as shall be prescribed in rules adopted and established by
6 the board of curators[; and provided further, that]. **However, aliens**
7 **unlawfully present in the United States shall not be eligible for**
8 **admission to the university.** The board of curators may charge and collect
9 reasonable tuition and other fees necessary for the maintenance and operation of
10 all departments of the university, as they may deem necessary.

11 2. **Prior to approval of any appropriations by the general**
12 **assembly for the University of Missouri, the registrar for each campus**
13 **of the University of Missouri shall annually certify to the education**
14 **appropriations committee of the house of representatives and the**
15 **appropriations committee of the senate that its campus has not**
16 **knowingly admitted any aliens unlawfully present in the United States**
17 **in the preceding year.**

174.130. 1. Each board may make such rules and regulations for the
2 admission of students as may be deemed proper. **However, aliens unlawfully**
3 **present in the United States shall not be eligible for admission to the**
4 **university or college.**

5 2. **Prior to approval of any appropriations by the general**
6 **assembly for the university or college, the registrar for each university**

7 or college shall annually certify to the education appropriations
8 committee of the house of representatives and the appropriations
9 committee of the senate that its university or college has not knowingly
10 admitted any aliens unlawfully present in the United States in the
11 preceding year.

175.025. 1. The board of curators of Lincoln University may
2 make such rules and regulations for the admission of students as it may
3 be deemed proper; provided that aliens unlawfully present in the
4 United States shall not be eligible for admission to the university.

5 2. Prior to approval of any appropriations by the general
6 assembly for the university, the registrar shall annually certify to the
7 education appropriations committee of the house of representatives
8 and the appropriations committee of the senate that the university has
9 not knowingly admitted any aliens unlawfully present in the United
10 States in the preceding year.

178.635. 1. The board of regents of Linn State Technical College shall
2 organize in the manner provided by law for the board of curators of the
3 University of Missouri. The powers, duties, authority, responsibilities, privileges,
4 immunities, liabilities and compensation of the board of Linn State Technical
5 College in regard to Linn State Technical College shall be the same as those
6 prescribed by statute for the board of curators of the University of Missouri in
7 regard to the University of Missouri, except that Linn State Technical College
8 shall be operated only as a state technical college. Nothing in this section shall
9 be construed to authorize Linn State Technical College to become a community
10 college or a university offering four-year or graduate degrees.

11 2. All lawful bonded indebtedness incurred by the issuance of revenue
12 bonds, as defined in section 176.010, RSMo, by Linn Technical College, shall be
13 deemed to be an indebtedness of the board of regents of Linn State Technical
14 College after the date upon which the conditions of section 178.631 are met. Such
15 indebtedness shall be retired through tuition revenues.

16 3. The board of regents may make such rules and regulations for
17 the admission of students as it may be deemed proper. However, aliens
18 unlawfully present in the United States shall not be eligible for
19 admission to Linn State Technical College.

20 4. Prior to approval of any appropriations by the general
21 assembly for Linn State Technical College, the registrar shall annually

22 **certify to the education appropriations committee of the house of**
23 **representatives and the appropriations committee of the senate that**
24 **the college has not knowingly admitted any aliens unlawfully present**
25 **in the United States in the preceding year.**

178.780. 1. Tax supported junior colleges formed prior to October 13,
2 1961, and those formed under the provisions of sections 178.770 to 178.890 shall
3 be under the supervision of the coordinating board for higher education.

4 2. The coordinating board for higher education shall:

5 (1) Establish the role of the two-year college in the state;

6 (2) Set up a survey form to be used for local surveys of need and potential
7 for two-year colleges; provide supervision in the conducting of surveys; require
8 that the results of the studies be used in reviewing applications for approval; and
9 establish and use the survey results to set up priorities;

10 (3) Require that the initiative to establish two-year colleges come from the
11 area to be served;

12 (4) Administer the state financial support program;

13 (5) Supervise the junior college districts formed under the provisions of
14 sections 178.770 to 178.890 and the junior colleges now in existence and formed
15 prior to October 13, 1961;

16 (6) Formulate and put into effect uniform policies as to budgeting, record
17 keeping, and student accounting;

18 (7) Establish uniform minimum entrance requirements and uniform
19 curricular offerings for all junior colleges **and ensure that aliens unlawfully**
20 **present in the United States are not eligible for admission to any junior**
21 **college;**

22 (8) Make a continuing study of junior college education in the state; and

23 (9) Be responsible for the accreditation of each junior college under its
24 supervision. Accreditation shall be conducted annually or as often as deemed
25 advisable and made in a manner consistent with rules and regulations
26 established and applied uniformly to all junior colleges in the state. Standards
27 for accreditation of junior colleges shall be formulated with due consideration
28 given to curriculum offerings and entrance requirements of the University of
29 Missouri.

178.786. **Prior to approval of any appropriations by the general**
2 **assembly for a junior college, the registrar for the college shall**
3 **annually certify to the education appropriations committee of the**

4 house of representatives and the appropriations committee of the
5 senate that its junior college has not knowingly admitted any aliens
6 unlawfully present in the United States in the preceding year.

208.009. 1. No alien unlawfully present in the United States shall
2 receive any state or local public benefit, except for state or local public
3 benefits that are required to be offered by 8 U.S.C. 1621(b). Nothing in
4 this section shall be construed to prohibit the rendering of emergency
5 medical care, emergency assistance, or legal assistance to any person.

6 2. As used in this section "public benefit" means any grant,
7 contract, loan, or license provided by an agency of state or local
8 government; or any retirement, welfare, health, disability, housing,
9 postsecondary education, food assistance, or unemployment benefit
10 under which payments, assistance, credits, or reduced rates or fees are
11 provided.

12 3. In addition to providing proof of other eligibility
13 requirements, at the time of application for any state or local public
14 benefit, an applicant who is eighteen years of age or older shall provide
15 affirmative proof that the applicant is a citizen or a permanent resident
16 of the United States or is lawfully present in the United States. Such
17 affirmative proof shall include documentary evidence recognized by the
18 department of revenue when processing an application for a driver's
19 license, as well as any document issued by the federal government that
20 confirms an alien's lawful presence in the United States.

21 4. An applicant who cannot provide the proof required under
22 this section at the time of application may alternatively sign an
23 affidavit under oath, attesting to either United States citizenship or
24 classification by the United States as an alien lawfully admitted for
25 permanent residence, in order to receive temporary benefits or
26 temporary identification document as provided in this section. The
27 affidavit shall include the applicant's Social Security number and an
28 explanation of the penalties under state law for obtaining public
29 assistance benefits fraudulently.

30 5. An applicant who has provided the sworn affidavit required
31 under subsection 4 of this section is eligible to receive temporary
32 public benefits as follows:

33 (1) For ninety days or until such time that it is determined that
34 the applicant is not lawfully present in the United States, whichever is

35 earlier; or

36 (2) Indefinitely if the applicant provides a copy of a completed
37 application for a birth certificate that is pending in Missouri or some
38 other state. An extension granted under this subdivision shall
39 terminate upon the applicant's receipt of a birth certificate or a
40 determination that a birth certificate does not exist because the
41 applicant is not a United States citizen.

42 6. An applicant who is an alien shall not receive any state or
43 local public benefit unless the alien's lawful presence in the United
44 States is first verified by the federal government, under 8 U.S.C.
45 1373(c). State and local agencies administering public benefits in this
46 state shall cooperate with the United States Department of Homeland
47 Security in achieving verification of an alien's lawful presence in the
48 United States in furtherance of this section. The system utilized may
49 include the Systematic Alien Verification for Entitlements Program
50 operated by the United States Department of Homeland Security.

285.309. 1. Every employer doing business in this state who
2 employs five or more employees shall, if applicable, submit federal 1099
3 miscellaneous forms to the department of revenue. Such forms shall be
4 submitted to the department of revenue within the time lines
5 established for the filing of Missouri Form 99 forms.

6 2. Any employer who intentionally, on five or more occasions,
7 fails to submit information on any employee required under subsection
8 1 of this section is guilty of a class A misdemeanor and shall be fined
9 not more than one hundred dollars for each time the employer fails to
10 submit the information on or after the fifth occurrence. If the failure
11 is the result of a conspiracy between the employer and the employee or
12 worker to not supply the required report or to supply a false or
13 incomplete report, the fine shall be one thousand dollars for each
14 failure to report or each false or incomplete report on and after the
15 fifth occurrence.

285.500. For the purposes of sections 285.500 to 285.515 the
2 following terms mean:

3 (1) "Employee", any individual who performs services for an
4 employer that would indicate an employer-employee relationship in
5 satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1 C.B.296.;

6 (2) "Employer", any individual, organization, partnership,

7 political subdivision, corporation, or other legal entity which has or
8 had in the entity's employ five or more individuals performing any of
9 the following services within this state:

- 10 (a) Construction as defined in section 290.210, RSMo;
11 (b) Public works as defined in section 290.210, RSMo;
12 (c) Maintenance work as defined in section 290.210, RSMo.

285.503. 1. An employer knowingly misclassifies a worker if that
2 employer fails to claim the worker as an employee but knows, or has
3 reason to know, that worker is an employee.

4 2. The attorney general may investigate alleged or suspected
5 violations of sections 285.500 to 285.515 and shall have all powers
6 provided by sections 407.040 to 407.090, RSMo, in connection with any
7 investigation of an alleged or suspected violation of sections 285.500 to
8 285.515 as if the acts enumerated in sections 285.500 to 285.515 are
9 unlawful acts proscribed by chapter 407, RSMo.

10 3. In addition to the powers set out in subsection 1 of this
11 section, the attorney general may serve and enforce subpoenas related
12 to the enforcement of sections 285.500 to 285.515.

285.506. 1. In any action brought under sections 285.500 to
2 285.515, the state shall have the burden of proving that the employer
3 misclassified the worker. If the state is unable to produce any evidence
4 supporting its contention that the alleged misclassified worker is
5 misclassified, the court shall find that the worker is not an employee
6 for purposes of that action.

7 2. In any action brought under sections 285.500 to 285.515, there
8 is a rebuttable presumption that a worker is an employee if the worker
9 is an unauthorized alien as defined in 8 U.S.C. 1324a(h)(3). To rebut
10 this presumption, the employer must produce an I-9 form to establish
11 that the worker is not an unauthorized alien or other documentation
12 to show that the worker is an independent contractor. If the employer
13 fails to produce such evidence, the court shall find that the worker is
14 an employee for purposes of that action.

285.509. 1. The department of labor and industrial relations shall
2 establish a complaint form to receive complaints about alleged
3 misclassification of workers. The form shall be made available on the
4 Internet. Upon receiving a complaint, the department shall cross-check
5 the complaint against any employer records it maintains and shall also

6 cross-check the complaint against any records maintained by the
7 department of revenue.

8 2. If the department determines, after conducting the review set
9 out in subsection 1 of this section, that an employer appears to have
10 misclassified a worker, it shall forward its determination along with
11 supporting documentation to the attorney general.

12 3. Upon receiving the department's determination, the attorney
13 general may request additional information or records from the
14 department of labor and industrial relations, the department of
15 revenue, or any other state agency that may have information or
16 records relevant to the matter. Upon request, the department or other
17 state agency shall provide the information or records requested. If the
18 attorney general receives records that are otherwise closed pursuant
19 to law, the attorney general shall likewise treat any such records
20 obtained in the course of an investigation as closed records, except that
21 such records may be used in the course of any action brought under
22 sections 285.500 to 285.515.

23 4. The department of labor and industrial relations shall have
24 the authority to promulgate rules necessary to administer the
25 provisions of this section. Any rule or portion of a rule, as that term is
26 defined in section 536.010, RSMo, that is created under the authority
27 delegated in this section shall become effective only if it complies with
28 and is subject to all of the provisions of chapter 536, RSMo, and, if
29 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
30 are nonseverable and if any of the powers vested with the general
31 assembly pursuant to chapter 536, RSMo, to review, to delay the
32 effective date, or to disapprove and annul a rule are subsequently held
33 unconstitutional, then the grant of rulemaking authority and any rule
34 proposed or adopted after August 28, 2008, shall be invalid and void.

285.512. 1. Whenever the attorney general has reason to believe
2 that an employer has engaged in, is engaging in, or is about to engage
3 in any conduct that would be a violation of sections 285.500 to 285.515,
4 the attorney general may seek an injunction prohibiting the employer
5 from engaging in such conduct.

6 2. The attorney general may bring an action for injunctive relief
7 in the circuit court of any county where the alleged violation is
8 occurring or about to occur.

9 3. In seeking injunctive relief, the attorney general may petition
10 the court to order that all work contracted for by the employer at any
11 site of the employer be halted if the court determines that the employer
12 has engaged in, or is about to engage in, any conduct that would be a
13 violation of sections 285.500 to 285.515. In addition to such relief, the
14 court may issue any other order or judgment necessary to prevent the
15 employer from committing any further violations of sections 285.500 to
16 285.515.

 285.515. 1. If a court determines that an employer has knowingly
2 misclassified a worker, the court shall enter a judgment in favor of the
3 state and award penalties in the amount of fifty dollars per day per
4 misclassified worker up to a maximum of fifty thousand dollars to the
5 Missouri worker protection fund established in section 285.518.

6 2. If a court determines that an employer has knowingly
7 misclassified a worker after having been previously adjudicated for
8 knowing misclassification of a worker, the court shall enter a judgment
9 in favor of the state and award penalties in the amount of one hundred
10 dollars per day per misclassified worker up to a maximum of one
11 hundred thousand dollars to the Missouri worker protection fund
12 established in section 285.518.

13 3. The court may, in addition to the penalties authorized by this
14 section, order that attorneys' fees and costs be paid to the state.

15 4. The attorney general may enter into a consent judgment with
16 any person alleged to have violated sections 285.500 to 285.515.

 285.518. There is hereby created in the state treasury the
2 "Missouri Worker Protection Fund", which shall consist of money
3 collected under sections 285.500 to 285.515. The state treasurer shall be
4 custodian of the fund and may approve disbursements from the fund in
5 accordance with sections 30.170 and 30.180, RSMo. Upon appropriation,
6 money in the fund shall be used solely for the administration of
7 sections 285.500 to 285.515. Notwithstanding the provisions of section
8 33.080, RSMo, to the contrary, any moneys remaining in the fund at the
9 end of the biennium shall not revert to the credit of the general
10 revenue fund. The state treasurer shall invest moneys in the fund in
11 the same manner as other funds are invested. Any interest and moneys
12 earned on such investments shall be credited to the fund. This fund
13 shall be administered by the attorney general for the purposes of

14 **ensuring that Missouri employers hire employees and subcontract with**
15 **workers who are not misclassified. The fund shall consist of:**

16 **(1) All amounts ordered to be paid into the fund pursuant to**
17 **section 285.515;**

18 **(2) Any amounts appropriated to the fund; and**

19 **(3) Any voluntary contributions, gifts, or bequests to the fund.**

Section B. Because of the need to provide a level playing field for Missouri
2 employers and workers, the provisions of section A of this act are deemed
3 necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and are hereby declared to be an emergency within the meaning of the
5 constitution, and section A of this act shall be in full force and effect upon its
6 passage and approval.

✓

Bill

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